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OFFICE OF PETITIONS

In re Application of
Howard Sachs
Application No. 09/840,747
Filed: April 23, 2001
Attorney Docket No.: 02111100010
Title: CIRCUIT GROUP DESIGN
METHODOLOGIES

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the renewed petition filed May 5, 2004, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed March 28, 2003, which set a shortened statutory period for reply of three (3) months. On October 14, 2003, the Examiner telephoned counsel to inquire as to whether a response had been filed, as none had been received². Counsel advised the Examiner of the after-final amendment, and submitted a duplicate copy via facsimile transmission. The amendment was considered, and it was not determined the place the application in condition for allowance. As such, both an advisory action and a Notice of Abandonment were mailed to counsel on October 23, 2003.

¹ A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

² With the instant petition, petitioner has included a copy of the PTO generated "Auto-Reply Facsimile Transmission (Auto-Reply)," which shows that an after-final amendment was transmitted via facsimile transmission on August 20, 2003, coupled with a two-month extension to make timely this response.

On November 24, 2003, the original petition was submitted, along with a Request for Continued Examination (RCE), the associated fee, the proper statement of unintentional delay, and instructions to charge the petition fee to petitioner's Deposit Account. Unfortunately, Petitioner failed to establish that the entire delay was unavoidable, and this petition was dismissed via the mailing of a decision on January 7, 2004.

Petitioner filed a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, including a request for consideration of a concurrently submitted amendment and payment of the RCE fee. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). Having made the proper statement of unintentional delay and having submitted the petition fee, an amendment, and a two-month extension of time to make timely this reply, petitioner has met all other requirements for a grantable petition under 37 C.F.R. §1.137(b).

The application file is being forwarded to Technology Center 2800 for consideration of the submission under 37 C.F.R. §1.114, the amendment filed concurrently with the renewed petition on May 5, 2004.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.



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